

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of The Commission Initiated  
Investigation Of The Reasonableness Of Dial  
Data Service Offered By Northwestern Bell  
Telephone Company

ISSUE DATE: March 10, 1988

DOCKET NO. P-421/CI-87-631

In the Matter of a Tariff Revision Filing by  
Northwestern Bell Telephone Company  
Regarding Standards for Information  
Providers of Dial Data Service

DOCKET NO. P-421/M-86-533

In the Matter of a Tariff Revision Filing by  
Northwestern Bell Telephone Company  
Regarding the Blocking of Calls to Dial Data  
Information Providers

DOCKET NO. P-421/M-87-602

ORDER REQUIRING 976 BLOCKING

BACKGROUND

Dial Data is a service in which Northwestern Bell Telephone Company (NWB or the Company) delivers calls from calling customers to companies which provide information for a fee. These companies are called information providers. Callers reach the information providers by dialing 1-976-xxxx. The information providers, rather than callers, are the subscribers to NWB's Dial Data Service.

NWB provides several services to its Dial Data customers including network access, call transport, call registering, rating, and billing of calls. Dial Data Service also includes collection of Dial Data charges from callers, by means of NWB's regular monthly bill, and remittance of the funds collected from callers to the information providers. The information providers in turn pay NWB the approved tariffed rates for Dial Data Service. Information providers, not NWB, control the message or information made available to calling customers.

PROCEDURAL HISTORY

The Minnesota Public Utilities Commission (The Commission) has received numerous complaints about Dial Data Service (976 Service). The majority of complaints concern large bills that are incurred when children or other legally incompetent persons make multiple calls to information providers without the knowledge or consent of parents or guardians.

The Commission previously received two filings regarding 976 Service. The first filing was made by NWB. NWB initially proposed to address the problem of bills for unauthorized calls to 976 Service by offering a tariff to block calls to 976 numbers upon customer request. NWB initially proposed to charge a one-time fee of \$12.25 and a monthly charge of \$1.00 for blocking or restricting calls to 976 numbers.

The second filing was made by the Residential Utilities Division of the Office of the Attorney General (RUD-AG). RUD-AG indicated it was inappropriate to require customers to pay a fee for blocking access to an unwanted service. RUD-AG proposed that NWB release customers from liability for unauthorized 976 calls, provide the 976 blocking service to customers without charge and that the cost of the blocking service be paid by the information providers. RUD-AG also requested that NWB be directed to give notice to customers that the blocking service is available without charge.

On October 30, 1987, the Commission issued its Order Initiating Summary Investigation and Consolidating Dockets in this matter. Pursuant to Minn. Stat. Section 237.081, the Commission directed that the NWB and RUD-AG call blocking proposals be made part of a summary investigation examining all aspects of 976 Service. The Commission required that initial comments be filed by November 19, 1987 and replies to those comments by December 9, 1987. The October 30, 1987 Order did not provide interim relief for the duration of the expedited investigation.

On November 3, 1987, the RUD-AG filed a motion for reconsideration of the part of the October 30 Order that denied interim relief. RUD-AG argued that interim relief was necessary to protect customers from large bills for unauthorized 976 calls while the investigation proceeded.

On November 9, 1987, NWB filed a request for reconsideration. NWB recommended that a modified blocking proposal be implemented. The revised proposal would waive the proposed 976 blocking service order charge of \$12.25 for 60 days, eliminate the service order charge for blocking when a customer changed or ordered other services, and eliminate the proposed \$1.00 monthly charge for blocking. NWB also proposed to notify customers of the availability of 976 blocking immediately, by bill insert, and when customers place orders for new service.

The RUD-AG replied to the revised NWB proposal on November 13, 1987. The RUD-AG supported the proposal in general but recommended that the service order charge of \$12.25 be waived for the duration of the investigation rather than for 60 days.

On November 30, 1987, the Commission issued its Order Granting Petitions for Reconsideration in this matter. That Order required NWB to make 976 call blocking service available to all residential customers without either a monthly or a service order charge for 75 days while the matter was under investigation. It also established certain customer notification procedures for 976 call blocking.

On January 11, 1988, the Commission sent written notice to parties notifying them that on January 19, 1988 the Commission would consider extending the interim relief measures ordered on November 30, 1987. Parties were also notified that they would be given an opportunity to make oral comments at that time.

At a Commission meeting on January 19, 1988, NWB, the Department of Public Service (DPS), and the RUD-AG indicated that they did not object to an extension of the interim relief period. No other party offered comments. The Commission determined that the previously ordered interim relief measures should be extended until this investigation is completed. The Commission issued its Order Extending Interim Relief on January 26, 1988.

On January 14, 1988, NWB informally advised the Commission that its parent corporation, US West, had revised its policy regarding 976 Service. NWB indicated that it intended to modify its blocking and content proposals as a result of the new US West policy. NWB indicated that the company intended to proceed as follows:

1. On February 1, 1988, file a revised tariff allowing permanent residential blocking without charge.
2. On March 1, 1988, file a revised content tariff which may restrict certain Dial Data programs to a second Dial Data Service prefix (960) and eliminate billing services for certain information providers.
3. On March 15, 1988, file revised cost data and rates which would require information providers to pay all costs of providing 976 Service, including the costs of blocking unwanted calls.

On January 26, 1988, the Commission also notified parties that it would hear oral arguments on February 18, 1988. The Commission reserved the issues of content restriction and specific dial data rates for a separate Commission meeting in order to allow parties to comment on NWB's March 1 and March 15 filings. Parties were notified that all other issues, including the issue of who should be responsible for the costs of preventing unwanted calls, should be addressed by the parties.

On February 18, 1988, the Commission heard oral arguments from the DPS, RUD-AG, Omnicall, Inc., Austral Communications, Borderline Productions, Inc., the University Of Minnesota, Clean Up Project, and NWB.

On February 19, 1988, the Commission met to consider all issues in this matter, except the issue of specific rates for 976 Service and call content issues.

### FINDINGS AND CONCLUSIONS

The first issue before the Commission is whether to allow the continued offering of 976 Service.

The Commission finds that there is substantial demand for some of the information services currently being offered through 976 services and it is important to preserve the opportunity for ratepayers to access them. Even so, the Commission continues to recognize that safeguards are needed to prevent the abuse and unauthorized use of 976 Service and to protect those who choose not to use it. Therefore, the Commission concludes that NWB should be allowed to continue offering 976 Service in areas where it is presently offered with the conditions explained below.

The second issue for the Commission to consider is whether there are practical alternatives to 976 blocking.

In recognition of the problems resulting from the unauthorized use of 976 Service, the Commission has ordered NWB to offer blocking of the service to any residential customer who has telephone service in an area where 976 Service is currently being offered. This type of blocking bars all calls to all information providers who are reached by dialing 1-976-xxxx.

The Commission has considered requiring customers to subscribe to 976 Service in advance of receiving the service, just as people subscribe to cable television service. This approach would require subscribers to anticipate the need for specific information. A representative from Dial-U, an information service which offers information on plant and insects, argued that people simply do not anticipate the need for information on the care of plants or the elimination of insects. Further, the subscription choice is almost illusory. At this time 976 Service is available on an all-or-nothing basis. It is not technically possible for customers to pick and choose a particular information service or a number of them. In addition, various parties have argued that converting 976 to a subscription service may have a chilling effect on the development and expansion of this evolving industry and technology.

The Commission will not adopt the subscription approach at this time. The Commission concludes that, at this time, making 976 blocking available to those who want it offers the most reasonable, practical and efficient remedy to the problems raised by this service.

The Commission will address whether assigning separate telephone prefixes to discrete groups of information services is lawful and reasonable at a later time in this proceeding.

The Commission must next determine whether blocking of 976 Service should be offered to the public without charge in areas where central office blocking equipment is not available.

The Commission finds that its November 30, 1987 Order Granting Petitions For Reconsideration required NWB to provide free blocking to all NWB residential customers where 976 Service is available.

NWB has stated that central office blocking equipment is not currently available for all its exchanges that offer 976 Service, although it will be by the end of 1988. The Commission finds that customers in areas where central office blocking is not available have the same problems with 976 Service as customers in areas where central office blocking is available, and are entitled to similar relief. Although central office blocking is not presently available in certain areas, NWB can provide relief in these areas by making premise blocking equipment available. Therefore, the Commission will

require NWB to make premise blocking equipment available upon customer request. In addition, the Commission will require that NWB provide, install, and maintain the premises blocking equipment without charge.

The next issue for the Commission to decide is whether blocking should be made available to businesses and non-profit organizations under the same terms and conditions that are offered to residential customers.

The Commission finds that the problems related to the unauthorized use of 976 Service is not limited to residential customers. Charges resulting from the unauthorized use of 976 Service have been incurred by small businesses, non-profit organizations and major corporations. The Commission concludes that the relief granted to residential customers should also be offered to business customers and will so order.

The Commission will next address who will be responsible for the costs of blocking.

The Commission recognizes that NWB and information providers seek to earn profits by offering 976 Service to the public. In part, the ability to earn profits from 976 Service is based on information providers and NWB having broad access to the public. The Commission finds that customer access to these information services is essentially automatic. In fact, refusing access to the service requires affirmative action. The Commission finds that information providers and NWB benefit financially from this broad access to customers. Those who benefit financially from the development of this service should pay the costs of resolving problems resulting from the expansion of the service. Further, the Commission finds that it would be unreasonable to require NWB's general ratepayers to pay for blocking 976 Service when they have not requested the service. Finally, the determination that NWB's general body of ratepayers should not be responsible for the costs of blocking 976 service is consistent with the Commission's prior order approving the existing 976 service tariff which requires information providers to pay all costs of 976 Service.

The cost of blocking is only one of the recent changes in the costs of providing 976 Service. The Commission will review all 976 Service costs later in this proceeding after NWB files revised cost data. At that time, all parties will be given an opportunity to examine and address the appropriateness of NWB's cost data. Parties will also be allowed to address how the costs should be recovered.

The Commission concludes that blocking should be provided to all business and residential customers without charge and, further, that the general body of NWB ratepayers should not be responsible for costs incurred in providing any blocking services.

The Commission will next address remedies for charges that result from the unauthorized use of 976 Service.

NWB has responded to complaints about 976 charges on a case-by-case basis. NWB asserts that it has a liberal refund policy which adequately addresses most of the complaints. Based on NWB's representation that all reasonable requests for 976 refunds are being granted, the Commission

encourages NWB to continue its liberal refund policy and will take no further action regarding refunds at this time.

The Commission acknowledges that repeated unauthorized use of 976 Service and frequent disputes regarding the charges incurred can create problems for NWB in light of its liberal refund policy. Therefore, the Commission finds that a customer's repeated disputes of 976 charges call for their own remedy. The Commission finds that after the first disputed 976 bill is adjusted to the satisfaction of the customer, if a customer again incurs and disputes charges for 976 calls, NWB should be required to renew its offer to provide blocking without charge to the particular customer. The Commission believes that for most customers the problem will end here. However, the Commission realizes that there may be a few instances when a customer would refuse blocking, anticipate "free" 976 Service, make 976 calls, and refuse to pay the charges. The Commission finds that it would be unreasonable to require or even encourage NWB to forgive 976 charges for customers who intentionally abuse the process established to protect them. Therefore, the Commission will authorize NWB to institute mandatory blocking of 976 Service under these circumstances.

The next issue for the Commission to decide is whether NWB should be allowed to disconnect telephone service for non-payment of 976 charges.

The Commission must balance the interests of NWB with those of customers who have incurred 976 charges and do not pay them. The important role basic telephone service plays in functioning in society cannot be denied. The Commission finds that customers should not have basic telephone service terminated for non-payment of 976 charges. Further, the Commission finds that it has established adequate protection for NWB and its shareholders by authorizing the Company to institute mandatory blocking for repeated abuse of 976 Service. The Commission concludes that it will prohibit NWB from disconnecting a customer's basic telephone service for failure to pay 976 charges.

Finally, the Commission will address whether conditions should be imposed on the advertising of 976 Service.

The Commission finds that it is premature to decide this issue at this time. The advertising of 976 Service is closely related to the content issues raised by 976 Service and will be fully analyzed later in this proceeding.

### ORDER

1. Northwestern Bell Telephone Company shall be allowed to continue offering 976 Service in all areas where the service is currently being offered, provided that NWB makes blocking of the service available to all residential and business customers upon request.

2. Northwestern Bell Telephone Company shall, within 30 days of the issuance of this Order, offer blocking of 976 Service to all business and residential customers on a permanent basis without charge to them or to the Company's general body of ratepayers.
3. In geographical areas where 976 Service is provided and the central office equipment does not have the capability to block 976 calls, Northwestern Bell Telephone Company shall, within 30 days of the issuance of this Order, provide, install, and maintain 976 call blocking equipment on the premises of all residential and business customers requesting blocking.
4. Northwestern Bell Telephone Company shall, within 30 days of the issuance of this Order, notify all present residential and business customers of the availability of 976 blocking service. Further, Northwestern Bell Telephone Company shall notify all business and residential customers in areas where central office blocking of 976 service is not available that the Company will provide 976 blocking without charge by means of customer premises equipment. Northwestern Bell Telephone Company shall submit proposed notices to comply with the requirements of this paragraph to the Commission within 10 days of the issuance of this Order. Finally, Northwestern Bell Telephone Company shall continue its policy of informing customers ordering telephone service of the availability of 976 blocking service.
5. Northwestern Bell Telephone Company shall continue its liberal refund policy for disputed 976 charges.
6. Northwestern Bell Telephone Company shall not disconnect basic telephone service because of non-payment of 976 charges.
7. Northwestern Bell Telephone Company is authorized to institute mandatory blocking of 976 Service as discussed in this Order.
8. If Northwestern Bell Telephone Company elects to implement a mandatory blocking policy, it shall file its proposed policy with the Commission for its approval prior to implementing the policy.

9. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(S E A L)